

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BULLSEYE TELECOM, INC.,

Case No. 18-cv-12331
Hon.

Plaintiff,

v.

U.S. VISION, INC.,

Defendant.

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DEFENDANT'S NOTICE OF REMOVAL

Defendant U.S. Vision, Inc. ("USV"), by their undersigned attorneys, hereby removes this matter to the United States District Court for the Eastern District of Michigan, Southern Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support of this Notice of Removal, USV states as follows:

THE REMOVED CASE

1. The removed case is a civil action filed by Plaintiff BullsEye Telecom, Inc. (“BullsEye”), on June 25, 2018 in the State of Michigan’s Oakland County Circuit Court, entitled *BullsEye Telecom, Inc. v. U.S. Vision, Inc.*, Case No. 2018-166553-CB. (Summons and Complaint, collectively attached hereto as Exhibit A to the Declaration of Elizabeth Reno [“Reno Decl.”].)

2. BullsEye’s Complaint alleges that Plaintiff is a Michigan corporation with its principal place of business located in Southfield, Michigan. Plaintiff is, therefore, a citizen of Michigan. *See* 28 U.S.C. §1332(c)(1); *see also Hertz Corp. v. Friend*, 559 U.S. 77, 92 (2010) (defining a corporation’s “principal place of business” for diversity purposes as “the place where the corporation’s officers direct, control, and coordinate the corporation’s activity.”).

3. As set forth in Plaintiff’s Complaint, USV is a Delaware corporation and its corporate headquarters are located in Glendora, New Jersey. USV is, therefore, a citizen of Delaware and New Jersey. *See* 28 U.S.C. §1332(c)(1); *see also Hertz*, 559 U.S. at 92.

4. USV is the only defendant named in this action. USV is not incorporated in Michigan, nor does it maintain a principal place of business or corporate headquarters in Michigan.

REMOVAL IS APPROPRIATE AND TIMELY

5. Removal is appropriate because complete diversity exists between the BullsEye and USV and the amount in controversy exceeds the jurisdictional minimum. *See* 28 U.S.C. §§ 1332 and 1441(a).

6. Plaintiff's Complaint prays for monetary damages against USV in an amount in excess of \$25,000.00 together with interest, costs, and attorney fees. Plaintiff claims in Paragraph 16 "As shows in the last substantive communication exchanged between the parties on June 8, 2018, Bullseye calculated that US Vision owed \$679, 927.87, while US Vision admitted owing only \$96,544.41" and subsequently claims in Paragraph 43 "Bullseye has suffered damages in the amount of \$706,567.02, together with costs, interest and attorney fees." Based on Plaintiff's allegations, the amount in controversy is well in excess of \$75,000.00. Therefore, upon information and belief, the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

7. Removal is timely. 28 U.S.C. § 1446(b) provides that notice of removal of a civil action shall be filed within thirty (30) days after a defendant's receipt, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based. BullsEye's counsel furnished a copy of its Summons and Complaint on or about June 26,

2018. USV files this Notice of Removal within thirty (30) days after receiving a copy of BullsEye's Summons and Complaint. The Notice is, therefore, timely.

PAPERS FROM REMOVED ACTION

8. As required by 28 U.S.C. § 1446(a), USV attaches copies of all process, pleadings, and orders that were served upon USV in the removed case. (Exhibit A to Reno Decl.)

ALL REMOVAL PROCEDURAL REQUIREMENTS HAVE BEEN SATISFIED

9. USV is informed and believed that BullsEye has not served any other defendant as of the date of filing of this Notice. USV is therefore not required to obtain the consent of any other defendants.

10. Pursuant to 28 U.S.C. § 1446(d), promptly after the filing of the Notice, USV will serve written notice of the removal of this action upon BullsEye.

11. Pursuant to 28 U.S.C. § 1446(d), USV will promptly file a copy of this Notice with the clerk of the Circuit Court of Oakland County, State of Michigan.

12. No previous application has been made for the relief requested herein.

13. The prerequisites for removal under 28 U.S.C. § 1441 have been met.

14. The allegations of the Notice are true and correct and within the jurisdiction of the United States District Court for the Eastern District of Michigan.

15. If any question arises as to the propriety of removing this action, USV requests the opportunity to present a written brief and oral argument in support of its position that this matter is removable.

16. USV reserves its right to amend or supplement this Notice.

WHEREFORE, USV hereby removes the action now pending in the Circuit Court of Oakland County of the State of Michigan, Case No. 2018-166553-CB to the United States District Court for the Eastern District of Michigan, and requests that said Court retain jurisdiction for all future proceedings.

Respectfully submitted,

Dated: July 25, 2018

/s/ Elizabeth R. Reno

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**ELIZABETH RENO DECLARATION IN SUPPORT OF NOTICE OF
REMOVAL**

I, ELIZABETH RENO, declare:

1. I am an attorney at law duly licensed to practice in the State of Michigan, as well as the United States District Courts for the Eastern District of Michigan. I am an associate with the law firm Gallagher Sharp LLP, attorneys of record for Defendant U.S. Vision, Inc. ("USV"). The facts set forth in this

declaration are based on my personal knowledge, on matters of which I am informed as counsel, and on my review of the firm's papers and records.

2. On or about June 26, 2018, counsel for Plaintiff BullsEye Telcom, Inc. ("BullsEye") furnished a copy of the Summons and Complaint in the above-entitled action. A true and correct copy of all process, pleadings, and orders with which USV has been served is attached hereto as Exhibit A.

3. Upon information and belief, as of the date of this declaration, BullsEye has not served any other defendant in this action.

4. Pursuant to 28 U.S.C. § 1446(d), promptly after filing of the Notice of Removal, I will cause written notice of the removal of this action to be served upon BullsEye.

5. Pursuant to 28 U.S.C. § 1446(d), I will promptly cause a copy of the Notice of Removal to be filed with the clerk of the Circuit Court of Oakland County, State of Michigan.

6. No previous application has been made for the relief requested in the Notice of Removal.

I declare under penalty of perjury, under the laws of Michigan, that the foregoing is true and correct.

Date: July 25, 2018

/s/ Elizabeth R. Reno

Elizabeth R. Reno